

4. Special Exception

(See zoning ordinance [§ 78-202.3](#), *Special Exception*.)

The Town of Herndon Zoning Ordinance User Guide series provides the public with general information on land use regulations affecting activities undertaken by the public and administered by the Herndon Department of Community Development. It is not intended to be a complete statement of all applicable regulations. Individuals are encouraged to contact the Department of Community Development at 703-787-7380 for complete permitting requirements.

What is a Special Exception?

For zoning purposes, Herndon categorizes land uses as “permitted by-right”, “permitted by special exception”, or not permitted at all. A Special Exception use ordinarily might not be permitted; however, the zoning ordinance provides that applying certain standards on a case-by-case basis works to make the use acceptable and compatible with other uses. A special review and approval process is needed to consider the location, design, configuration, density and intensity of the proposed use. Conditions are often applied by the Town Council to ensure the appropriateness of the use at a particular location.

What are Special Exception uses?

All zoning districts in the town, except planned development districts, have specific uses that are classified as “special exceptions.” For example, government buildings are permitted only with a Special Exception to ensure that the proposed building is harmonious with its surroundings. Some uses, such as restaurants, are permitted “by-right” in some districts and by “special exception” in other districts. Utility-related maintenance and storage yards are only permitted by Special Exception and only in the Commercial Service District and the Office & Light Industrial District. A full list of uses permitted in the town is shown in the Table of Principal Permitted and Allowed Uses in [§ 78-400](#) of the Zoning Ordinance.

What is involved in obtaining a Special Exception?

The applicant must complete a Special Exception application along with all information specified in [§ 78-201.3](#), *Submittal Requirements* and [§ 78-202.3](#), *Special Exception*. Information submitted with the application must show how the use will meet the standards described in [§ 78-202.3](#)(e), *Standards*, and it must include a general plan of the site, as well as a Traffic Impact Study.

Applicants are expected to attend public hearings when the application is considered. The application is considered by the Planning Commission at a public hearing which is followed by a recommendation by the Planning Commission to the Town Council. The Town Council later holds a public hearing, considers the application, the Planning Commission recommendation, the staff report, and the applicant’s presentation. The Town Council then makes a decision to approve or disapprove the application based on the standards in the zoning ordinance. Those standards address:

- ☐ The town’s comprehensive plan;
- ☐ Possible conflict with any other laws and regulations;
- ☐ The health and safety of the public;
- ☐ The purpose and intent of the zoning district in which the use is proposed to be located;
- ☐ Visual impact of the proposed use on adjacent lands;
- ☐ Orderly development patterns;
- ☐ Effect on surrounding properties;
- ☐ Effect on the natural environment;
- ☐ Effect on the town’s transportation network;
- ☐ Adequate service by public facilities (roads, potable water, sewage, schools, parks, police, fire, and emergency medical facilities);
- ☐ Floodplain Overlay Standards, if applicable. Sometimes, “special exception” uses are accessory to other uses. As an **accessory use**, the proposed use must meet the standards above plus:
- ☐ Not exceed an amount of floor area equivalent to 20 percent of the total floor area of the principal use to which it is accessory; and

- ☐ Be compatible with adjacent land uses in terms of hours of operation, noise, lighting, parking and similar considerations

What happens after the Special Exception is approved?

A Building Permit (if applicable) must be issued within one year, and the development completed within the time allowed under the town's building regulations, or the Special Exception shall expire. This period may be extended by six months if a written request is received at least 30 days prior to expiration and if the extension is approved by the Town Council. No application for a Special Exception for the same lot may be considered by the Town Council within a period of one year from its last consideration.

Are other land use permits required to conduct a Special Exception use?

Yes. Permits include:

- ☐ A Zoning Inspection Permit (application form available upon request) if located in a newly constructed building or in a home as a home-based business;
- ☐ A Zoning Appropriateness Permit (application form available upon request), if located in an existing commercial space;
- ☐ A Business License (application form available upon request)

Need more information?

Have a question regarding required permits, the permit process, or application requirements? Call (703) 787-7380 or e-mail community.development@herndon-va.gov to make an appointment to see a member of the Department of Community Development.

Have a question regarding Building Permits or construction codes? Call (703) 435-6850 or e-mail buildinginspections@herndon-va.gov to make an appointment to see the Building Official.

Visit the Planning/Zoning page on the Town's web site at www.herndon-va.gov to view the Department of Community Development web site for the Zoning Ordinance User Guide series or to access the town code. Town offices are located at the Herndon Municipal Center at 777 Lynn Street, Herndon, Virginia, 20170.

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